system which, however cautiously enforced, involves some restriction will, therefore, be had recourse to only when and so far as it is found to be absolutely necessary. This circumstance, even on the assumption that revenue is the chief concern of Government affords ample guarantee against any incautious and unnecessary application of the provision. I may add that there is reason to believe, that smuggling to a more or less consid rable extent prevails in certain tracts on or near the frontier, and in the opinion of experienced local officers, a system of license would go a great way towards checking illicit trade. The object of the provision is to prevent illicit dealings and not by any means to hamper licit trade or restrict licit consumption. The license, it will be observed, will be granted free and every care will be taken to minimize, if not altogether prevent inconvenience and delay in obtaining it.

Section 3 of the Bill which provides for searches &c. without a warrant has been materially modified. Several safe-guards have been introduced to minimize the chance of abuse of the power. Searches can be made only by officers specially empowered in that behalf, and only in cases of emergency, i. e. when the delay in obtaining a search-warrant would prevent the discovery of the suspected article. Searches can be made only between sunrise and sunset. Before making the search, the officer is bound to record in writing the name &c. of the informant, if any, the name &c. of the place where and of the person by whom the contraband article is kept or sold, the quantity of the article, and the grounds for believing that such article is kept. If any arrest is made, the person arrested should be released on bail if and so soon as bail is produced.

The power conferred by the section is doubtless capable of being turned into an engine of oppression by unprincipled subordinates in out of the way places, but experience has shown the need for such power for the protection of the tobacco revenue. It may, however, be reasonably hoped that the safe-guards above indicated together with the provision contained in section 12 of the Tobacco Regulation (VIII of 1063) which lays down heavy penalty for vexatious or unnecessary searches or arrests will greatly minimize the chances of abuse.

I do not think I need say anything about the other sections of the Bill.

Seconded by Mr. Prince.

Carried.

No amendments having been proposed, Mr. Thanu Pillai moved that the Bill be read again on a future day, of which notice shall be given.

The motion was put and agreed to.

BILL TO AMEND THE TOWNS CONSERVANCY AND IMPROVEMENT REGULATION, II OF 1039.

Mr. Thanu Pillai.—In the ordinary course of business, I should have moved for the report of the Select Committee on the Bill to amend the Towns Conservancy and Improvement Regulation being taken into consideration at the last meeting of the Council. I had, however, some doubt then whether the report and the Bill as amended by the Committee were sufficiently long before the public; and as it was obviously desirable to afford the public the fullest opportunity of forming and expressing their opinion on this important measure, I asked and obtained the permission of the Council to defer the consideration of the report to this meeting

The Select Committee subjected the Bill as introduced to careful scrutiny. The suggestions made by the High Court, the several Town Improvement Committees, and the public received its best consideration, though, I regret, all the papers placed before the Committee were not expressly referred to in the marginal note in the report. Some material alterations have been made by the Select Committee and these are fully set forth in the report. I would here confine myself to a few of the more important amendments.

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The sections relating to the constitution of the Committees have been materially modified. The principle of representation, though doubtless intended, was not expressly and unambiguously stated in the original Bill. The amendment introduced by the Select Committee places this matter beyond all doubt. It is now distinctly laid down that not less than one-fourth of the members shall be persons elected by the taxpayers and inhabitants of the towns. It is further declared that the persons so elected shall be non-officials. This goes beyond the law in British India, where an elected member may be official or non-official. In view to prevent the possibility of the free action of voters being tampered with by the influence of local officials, who, like the rings, machines and "deals" in America, may have considerable power over the bulk of the urban population, the above restriction has been introduced, and it is hoped that the provision will have a wholesome effect on elections and would prevent, what unfortunately sometimes happens even in advanced countries, popular *mis*-representation taking the place of popular representation. The minimum number of members for each Committee, which was 6 in the original Bill, has been raised to 8 and the Select Committee has also fixed a maximum (16). The Select Committee has further introduced a section laying down the qualifications of members.

In the Chapter relating to the powers of Committees for sanitary and other purposes, some important modifications have been made. Section 35, which provides for the substitution of non-inflammable for easily inflammable metrials for roofs &c. of buildings in crowded parts of towns, has been amended so as to minimize interference with and inconvenience to private individuals. As the works contemplated in the section are intended to secure immunity from injury by fire, and not for sanitation and general conservancy, a proviso has been added declaring that the funds required for the purpose shall be provided by Government and cannot be met. from the Town Fund. A provision has also been introduced exempting from the operation of the section, pandals temporarily constructed in compounds with enclosures at a distance of 50 feet from neighbouring houses. Considering that almost every town in this country is a *rus in urbe*, with houses standing in the middle of more or less spacious compounds, the above provision secures at once sufficient liberty of action to the individual and protection to the public.

In the original Bill there were no provisions for regulating markets. The omission has been supplied by the select committee, the necessary provisions having been adopted with suitable modifications, from the Madras District Municipalities Act. The Town Improvement Committee is empowered to declare a place within a town a public market, to close it if necessary, to charge rents or fees for the use of it, to expel from it undesirable persons; also to license private markets, and to prescribe the manner in which such markets should be maintained. The powers conferred on the Committee are, it will be noted, intended not to hamper trade, but to promote it with due regard to the health, safety and comfort of the public.

A new section (71) has been added at the instance of the High Court, making it penal for the owner of any building or land to allow water from any sink, drain, privy or stable to flow from such building or land into any portion of a street except a drain. The provision of course is useful and necessary to prevent a crying evil in thickly populated portions of towns; but it presupposes the existence of properly constructed drains in public streets.

Chapter IV is the most important, as it is the most contentious portion of the Bill, and it consequently received the most careful consideration of the Select Committee, and some important alterations have been made.

To the items specified in the original Bill as constituting the Town Fund, have been added (1) fines imposed under the Police Regulation in cases of public nuisances committed within towns; (2) license fees, if any, levied within the towns; and (3) income derived from any property owned or managed by the Committee.

In the section dealing with the imposition of taxes and tolls, an important modification has been made, the effect of which is that the initiative in the matter of local taxation would rest entirely with the Committee.

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The provision relating to taxes on lands and buildings has been materially modified. All lands other than those used as public cart-stands and for other similar purposes are exempted from liability to municipal tax. The taxable minimum in regard to buildings has been raised from Rs. 12 to Rs. 24 annual value. This will exempt from taxation houses owned or occupied by a considerable portion of the urban population. A provision has been introduced allowing a deduction from the tax leviable under the section, of any general assessment now imposed on the lands and buildings. A deduction will also be made from the gross annual rent of houses, of the cost of necessary annual repairs. Carts and animals used for agricultural purposes and small valloms are also exempted from taxation. Artizans have been altogether omitted from Schedule A. Class VII of Schedule A has also been omitted. The effect of this would be to raise the minimum taxable income from 30 to 50 Rs. In British India, the minimum taxable limit is 30 Rs., and the rate of tax there is twice that provided in the Bill. I believe the proportion of the population whose income is Rs. 50 and above, will be much larger in an average British Municipality than in the Towns in this country. The above facts and circumstances lead to two important deductions—first, that the ratio of the urban population who will be liable to pay municipal tax in Travancore will be considerably smaller than in British India, and secondly, the incidence in respect of those liable to pay such tax will likewise be very light.

I now pass on to the last and miscellaneous Chapter, in which also some important alterations have been introduced by the Select Committee. I would notice only one or two of them. In the Bill as introduced, provision is made for a suit against the Committee for any damage sustained by any person on account of any act, order or notice of the Committee; but the aggrieved party has no right to seek the aid of the civil court in stopping or setting aside such act or order. The aggrieved party, no doubt, is allowed a right of appeal against the act, order or notice of the Committee to the executive head of the administration; but there is an obvious difference between such appeal and the right to have an illegal action or order of a Committee stopped or set aside through the instrumentality of a civil court. Section 97 has been modified accordingly. The period for bringing in a suit has also been raised from 6 to 8 months.

A section has been added (116) declaring that a Magistrate, who is directly or indirectly concerned in the passing of any resolution, shall not act judicially in reference to that resolution.

I think I need not trouble the Council with further details. It is a gratifying feature that the Bill as amended by the Select Committee has evoked very little criticism from the intelligent public. The Council is of course aware of the stir which the Bill made soon after its introduction, and the calm which has prevailed since the discussions which took place at the early stage of its progress through the Council, while indicating that the provisions have met with general acceptance, speaks much for the temper and judgment of the public. I flatter myself that the intelligent public will see that this measure is a step in the direction of progress. The Bill confers a substantial, though limited, measure of local self-government. Some perhaps may think that it goes beyond present conditions and needs. Others may consider that it does not go far enough. To the latter, I would observe that in a progressive society "social necessities and social opinion", as pointed out by Sir H. Maine, "are always more or less in advance of law." I would ask the former to remember that "the greater or less happiness of a people", in the words of the same high authority, "depends upon the degree of promptitude with which the gulf (between social necessities and opinion and law) is narrowed."

With these observations, I beg to move that the Report of the Select Committee and the Bill as amended by them be taken up for consideration.

Seconded by Mr. Prince.

The motion was put and agreed to.

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Section 3, Sub-Section (10)

Mr. Thanu Pillai.—I beg to propose that the words 'or for the sale of live-stock or poultry' be inserted between 'consumption' and 'which' in line 5. These words occur in section 56, which deals with markets, and should, therefore, find a place in the definition of 'market.' The amendment proposed would make the two sections tally.

Seconded by Mr. Prince.

Carried.

Section 5, Sub-Section (2)

Mr. Maltby.—I beg to propose that the words 'by him' be inserted after 'consideration'. This would bring out clearly what is meant.

Seconded by Mr. Prince.

Carried.

Section 9, Sub-Section (4)

Mr. Thanu Pillai.— I beg to propose that the word 'permanently' be inserted between 'being' and 'transferred' in line 4; and that the following explanation be added at the end of the section:

"*Explanation.*— Transfer for a period exceeding three months shall be deemed to be a permanent transfer for the purpose of this section."

I do not think this requires any explanation. What is meant is to make the provision explicit by putting in the word 'permanently' and explaining it.

Seconded by Mr. Ramier.

Carried.

Section 11, Sub-Section (2)

Mr. Thanu Pillai.— I beg to propose that this sub-section be re-cast as follows:

"Our Government may re-appoint a President or Member removed under sub-section (1)." The amendment is only verbal and will, I am sure, commend itself to the Council. Instead of saying that Government may fix a period during which a President or Member shall not be eligible for re-appointment, we say generally that Government may re-appoint a President or Member who has been removed. This conveys the same meaning in a better form.

Seconded by Mr. Ramier.

Carried.

Section 14, Sub-Section (3).

Mr. Maltby.— I beg to propose that the words 'may be specially and personally interested' be substituted for 'has any personal interest' in line 5. The amendment is necessary to remove the vagueness in the wording as it now stands and will make the sense clearer.

Seconded by Mr. Prince.

Carried.

Sections 22 and 23.

Mr. Thanu Pillai.—My next amendment is to restore the following section (23 of the original Bill) which was left out by the Select Committee:—

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"In cases of emergency, Our Government may direct or authorise a public officer to execute any work or do any act which the Committee or the President is empowered to execute or do, and the immediate execution or doing of which is, in their opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be met from the Town Fund."

The chief reason which led the Select Committee to omit this section was that it is not absolutely necessary, because under the next following section which is retained in the amended Bill, the Government may have any work executed by an agency other than the Committee or the President. The Select Committee thought that the latter section would meet all reasonable requirements. But on further consideration, it strikes me that the provision in section 23 of the amended Bill will not cover all the cases contemplated by the section which it is proposed to restore. Under section 23, the condition precedent to the Government getting a work executed by another agency, is that the Committee or President should have made default. Before deciding whether a work or act suggested by Government should be executed or done, the Committee must meet, discuss and pass a resolution. This necessarily takes time, and it is only after the Committee has finally resolved not to carry out the work or do the act suggested that Government could proceed under section 23. Now the cases contemplated in the proposed section are those in which prompt and immediate action would be necessary, and where any reference to the Committee and waiting for its consideration and resolution would be detrimental to the interests of the public. There are, as it were, three parties concerned in these matters—the Government, the Committee and the general public. The power is wanted entirely in the interests of the third group, namely, the public. We can easily conceive cases in which the Committee may not be able to take the same view of an important and emergent situation as the Government. Without meaning the slightest disparagement to the Committees, it is possible that their stand-point may be different from that of Government and nobody will dispute the fact that the responsibility of Government is much higher than of any local body, however representative that body may be. Another consideration which I would indicate is that in some cases efficiency is more often secured by the prompt action of a single individual than of a body of persons however good or well-intentioned. Take the case of the plague. Here promptitude at the outset is all—important. The initiative of the Committee which of course involves some discussion and delay, might on such occasions prove seriously detrimental to the public interests. To obviate this danger, it is very necessary that Government should have the power to get the needful done promptly. I have heard from some of my friends in the Council the observation that the occasions for the exercise of this power would be very rare. I quite agree with them and consider this an argument in support of the amendment. These are the reasons which have induced me, though I agreed to the omission of the section by the Select Committee, to move for its re-introduction now.

Mr. Prince.—I second the amendment. I think it is a very wise provision in an enactment of this kind. In the cases referred to by my friend the Mover, it is likely that the absence of the power might lead to a dead-lock and prove disastrous to the public.

Mr. Ramier.—I am sorry I cannot bring myself to agree with the learned Mover. This subject received the most anxious consideration of the Select Committee, and they came to the conclusion that the provision in the original Bill is not necessary. The reasons now urged by my learned friend, the Mover of the amendment, do not, to my mind, appear sufficient to change the view formed by the Select Committee. If I have understood the Mover aright, his chief reason is that in cases of emergency the Committee may not be able to act promptly, and Government action may become necessary. In reply to this, I would draw the attention of the Council to sections 20 and 23 of the amended Bill. Under section 20, the President is empowered to act in cases of emergency without waiting for the opinion of the Committee. I need hardly point out that the President is not an elected member, but an officer appointed by Government, generally the chief executive officer of the District. Whatever fears may be entertained of the action of the members of the Committee, sufficient reliance can, I think, be placed on the

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President. I would go a step further, and say that even against an erring President, the Government have ample powers under section 23. The section empowers the Government to fix a period—it may be 3 days, 2 days or even a day—within which the Committee or President should carry out any particular work; and if, in spite of the emergency pointed out, the Committee or the President fail to execute it, the Government have the power to get it done by any other agency at the cost of the Committee. This, I think, fully covers the object aimed at by the amendment. While the amendment gives the Government power to act in emergent cases without even giving a warning to the Committee, the present section contains the same power with the condition that a warning shall be given to the Committee before the Government take action. All that could be done by the proposed amendment is possible under the present section, by the Government giving a short notice to the Committee. Where is the necessity for the Government to discard the Committee and President, to get things done by another agency, and then ask the Committee to pay? The provision, I am afraid, will be a reflection on the Committee and President. If, as my friend said, the occasions for the exercise of the power would be rare, that is an argument I would use against the retention of such a derogatory provision. I cannot do better than read from the report of the Select Committee, para 19:—" We fail to see the necessity for such a provision. Having regard to the constitution of the Committee, it does not seem likely that any practical difficulty will arise in getting any emergent work done by or through the Committee; while the exercise of the power conferred by the section would, we fear, seriously detract from the prestige and even the usefulness of the Committee." Having come deliberately to this opinion, I do not for myself feel bold to say that anything has been shown, either in the discussion or other things I have come across, to change that opinion and adopt the proposed amendment.

Mr. Rajaram Row.—As a Member of the Select Committee, I must say that Mr. Thanu Pillai has fully set forth the objections which Mr. Ramier and myself had to the retention of the section which it is now proposed to restore. The Government, as Mr. Ramier observed, has always a President, who may be trusted to be quite alive to the situation in emergent cases. It is not, I think, consistent with the prestige of the Committee and the President to have a Damocles sword, which the proposed amendment would practically amount to, hanging over their heads. Nor is it, in my opinion, in keeping with the spirit in which we are undertaking this legislation, to say that the Committee and the President cannot be trusted to act promptly in emergent cases. For this reason principally, I would oppose the amendment.

President.—There may be occasions when the President may not be on the spot and prompt action may be necessary, as in the case of plague. The President may be at Shencottah when effective measures would have to be taken emergently at Quilon. The President may not take the same view of the emergency as the Government. The fact that he is an officer of Government does not mean that he should invariably surrender his judgment at the dictation of Government. When the law constitutes the President the sole judge of the emergency, no Government acting on constitutional principles will be justified in compelling him to adopt its view. The power is necessary to meet practical requirements in a legitimate way. There is no reflection of any kind against the President or Committee. What is meant is simply that the power should be reserved to Government, to be used only when actual necessity arises. The Council is aware that the Viceroy has the power, though of course it is very rarely used, of overriding his Council, and, certainly, the Council has not suffered in prestige on that account.

Mr. Nagam Aiya.—As the President assures the Council that no reflection is meant, and as it is only in cases of extreme emergency the power would be exercised, and as Mr. Ramier says that the proposed amendment and section 23 of the Select Committee's Bill are practically identical, I would support the amendment.

Mr. Thanu Pillai.—I beg to be permitted to say a word to correct an erroneous impression which appears unfortunately to exist in the minds of some of the members—I mean the idea of reflection. I would simply draw the attention

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of the Council to the fact that the provision contained in the amendment occurs in all the Municipality Acts of British India, and, I believe, in the Municipality Acts of more advanced countries. It will certainly not be denied that the municipalities of British India, constituted after the famous resolution of Lord Ripon, are far more representative in character and have greater responsibilities than our Town Improvement Committees. If a provision like this can find a place in all similar Acts elsewhere, and if it has not been regarded as a reflection upon the municipal bodies constituted under those Acts, I do not see how it can be considered as such here.

I am unable to accept my friend Mr. Ramier's argument that sections 20 and 23 of the Bill cover the whole ground contemplated by the proposed amendment. Action under section 20 requires that the President should be present on the spot. This we know is not always possible, as the Presidents have multifarious duties to attend to and have to move over large areas. Occasions like the Shencottah riots may call them away from the towns and necessitate their continued absence for weeks and months. Again, it is possible the President may not take the same view as the Government, and in reference to the distinction which my friend seems to indicate between officials and non-officials, I may be permitted to say that experience does not warrant it. Nor will section 23 answer. In order to ascertain whether a Committee will or will not carry out the work, some time must necessarily elapse. What is aimed at by the amendment is to avoid the danger that may be caused by delay.

We should not forget that the Committee is after all only a means to an end —that end being the health, safety and comfort of the public; and in considering the merits of the proposed section, we should set aside all considerations of sentiment and ask ourselves whether the provision is or is not necessary to secure the above end. With the sources of information and expert opinion available to Government, they may find that a particular work should be forthwith carried out to prevent a great danger, for instance, the possible importation of plague. Is it for the good of the community that on such occasions the end should be sacrificed to the means, and Goverment should suspend action till the matter has been discussed and resolved on by the Committee, when they are convinced that immediate action is imperatively necessary and every moment's delay would be fraught with grave danger to the public? The Committee, as constituted under the Bill, will doubtless be an intelligent and representative body and every member of it will, I am sure, realise to the full his responsibility. But it will not be denied that the responsibility of Government is paramount.

Mr. Maltby.—I am not for the amendment. It seems to me that sections 20 and 23 give all the power the Government want.

Mr. Kochukrishna Marar.—I support the amendment.

Mr. Ponnen.—I am not for the amendment.

President.—I agree with the mover.

Carried by majority.

Section 82.

Mr. Thanu Pillai.—I beg to propose that in para 1, line 16, between the words 'Regulation' and 'and' the words 'all sums paid by way of composition under section 119 of this Regulation' be inserted; and that clause (3) of section 119 be omitted. This is simply a transposition. The object is to group together all the items constituting the Town Fund.

Seconded by Mr. Rajaram Row.

Carried.

Mr. Thanu Pillai.— My next amendment is to insert at the end of the 1st proviso, the words 'exclusive of the amount allotted for works under section 18 of Regulation II of 1069'. We have already said, in section 36 of the amended Bill,

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that the funds for this purpose are to be separately provided by the Government. At present the annual allotment for the towns includes this sum. Unless it is expressly excluded, doubts may arise as to the amount to be contributed by the Government under the new law. I do not think anybody will object to the amendment as it merely seeks to make the provision clear.

Seconded by Mr. Prince.

Carried.

Mr. Thanu Pillai.— In the second proviso, I beg to propose that the words 'that may be collected in such town under the provisions of this chapter' be substituted for the words 'granted to the existing towns of similar proportions'. The proviso itself was put in by the Select Committee. The object is that if new towns are constituted under this Regulation, they should have the privilege of obtaining from the Government grants which shall bear some proportion to the allotment secured to the existing towns under the 1st proviso; but the wording of the proviso, as given in the amended Bill, will be attended with doubts and difficulties in practical working. The expression 'towns of similar proportions' is not definite. The proportion may be with reference either to area or population. At present, the allotments are not made with reference either to area or population. There are thus three variable elements—area, population and present allotment. It is difficult to make any calculation for the new towns with such an unsettled basis. The best course, therefore, seems to be to adopt some other principle of calculation. It may be objected that in the new towns, which will be poorer and more sparsely populated than the existing towns, the local collections under the Regulation may not come to much. This is quite true. But there is nothing in the amended section to prevent Government increasing the grants. What is aimed at is to make the statutory obligation definite. The amendment is also calculated to foster the spirit of self-help.

Seconded by Mr. Prince.

After some discussion, the motion was carried by majority.

Section 85.

Mr. Thanu Pillai.—In clause (I), Exemption II (*a*), I beg to propose that the words 'and not leased by them' be omitted. All Government lands and buildings should be treated alike for purposes of municipal taxation.

Seconded by Mr. Prince.

Carried.

Mr. Thanu Pillai.—In clause (I), Exemption II (*b*), I beg to propose that the words 'temples, churches, mosques and other places of worship' be inserted before 'light-houses.' This amendment is only verbal and is intended to make the scope of the exemption clearer.

Seconded by Mr. Ramier.

Carried.

Mr. Thanu Pillai.—In clause (I), Explanation, 2nd para, I beg to propose that the words 'a deduction of one-sixth of the gross annual rent shall be made on account of necessary annual repairs' be substituted for the words 'the cost of necessary annual repairs shall be deducted from the gross annual rent.' As it is, the explanation is indefinite. The proportion given in the amendment is taken from the British income-tax rule.

Seconded by Mr. Rajaram Row.

Carried.

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Section 96.

Mr. Maltby.—I beg to propose that the words 'of the town in which they are raised' be added at the end of the section. This is evidently what is meant. The proposed amendment would make the meaning clear.

Seconded by Mr. Poonen.

Carried.

Section 106.

Mr. Thanu Pillai.—I beg to propose that the words 'other than fines and penalties' be inserted between 'monies' and 'recoverable.' This amendment is verbal. Section 125 of the amended Bill provides a special procedure for the recovery of fines. They should therefore be excluded from section 106.

Seconded by Mr. Prince.

Carried.

Section 116.

Mr. Thanu Pillai.—My last amendment is to insert the words 'President or' between 'as' and 'a member' in the proviso to this section. There is no reason why a distinction should be made between the President and a member for the purpose of the section.

Seconded by Mr. Prince.

Carried.

Section 85.

Mr. Nagam Aiya.—With the permission of the President, I beg to propose that the words 'building or' in the proviso to clause (1) be omitted. I do not think there should be any difference for purposes of municipal taxation between buildings standing on tax-free land and those on land paying tax to Government.

Seconded by Mr. Ramier.

After some discussion, the amendment was carried by majority.

Mr. Thanu Pillai.—I beg to move that the Bill as amended be read again on a future day of which notice shall be given.

The Council adjourned at 4–50 P. M.

K. KRISHNASWAMY RAO,
President.

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